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owner was entitled to testify that he complained to such subcontractor, and told him that the floor could not be used, that it was soft, and did not seem right.

[Ed. Note.—For other cases, see Principal and Agent, Dec. Dig. § 182.\* 1 Va.-W. Va. Enc. Dig. 275, 282.]

**7. Appeal and Error (§ 1051\*)—Evidence—Prejudice.**—Where, in an action for damages caused by the defective construction of the floor in a building, the jury were permitted to view the premises, defendant was not prejudiced by the introduction of photographs thereof.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4161-4170; Dec. Dig. § 1051.\* 1 Va. W. Va. Enc. Dig. 592.]

Error to Law and Equity Court of City of Richmond.

Action by L. H. Jenkins against George W. Lambert. Judgment for plaintiff, and defendant brings error. Affirmed.

*W. L. Royall*, for plaintiff in error.

*Garnett & Pollard*, for defendant in error.

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MARBURY et al. v. JONES et al.

Sept. 14, 1911.

[71 S. E. 1124.]

**1. Mortgages (§ 372\*)—Agreements by Mortgagor—Effect—Title of Purchaser.**—An agreement by a mortgagor, after giving the deed of trust, does not affect the rights of the trustee or his purchaser.

[Ed. Note.—For other cases, see Mortgages, Dec. Dig. § 372.\* See also 10 Va.-W. Va. Enc. Dig. 63.]

**2. Adverse Possession (§ 46\*)—Interruption.**—P., being in possession under a deed from defendant, made an agreement verbally acknowledging plaintiff's ownership, without defendant's knowledge. Later P. mortgaged the land, and defendant purchased under the deed of trust. Held, that the parol agreement did not interrupt defendant's adverse possession.

[Ed. Note.—For other cases, see Adverse Possession, Dec. Dig. § 46.\* 1 Va.-W. Va. Enc. Dig. 208; 14 id. 23.]

**3. Trial (§ 296\*)—Instructions—Cure of Error.**—Omission from an instruction of holding under color of title as an element of adverse possession was cured by another instruction requiring that element.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 705-713; Dec. Dig. § 296.\* 1 Va.-W. Va. Enc. Dig. 206; 7 id. 743.]

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

**4. Ejectment (§ 93\*)—Evidence—Sufficiency.**—Evidence in ejectment held insufficient to warrant verdict for plaintiff.

[Ed. Note.—For other cases, see Ejectment, Dec. Dig. § 93.\* 4 Va.-W. Va. Enc. Dig. 910.]

**5. Ejectment (§ 9\*)—Rights to Recover.**—Plaintiff in ejectment must recover, if at all, on the strength of his own title, and not on the weakness of defendant's.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 18; Dec. Dig. § 9.\* 4 Va.-W. Va. Enc. Dig. 876.]

Error to Circuit Court of City of Alexandria.

Ejectment by Anna T. Marbury and another against Bessie W. Jones. Judgment for defendant, and plaintiffs bring error. Affirmed.

*Francis L. Smith and Lewis H. Machen*, for plaintiffs in error.

*J. K. M. Norton*, for defendants in error.

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HARDIN *v.* CITY OF RADFORD.

Sept. 14, 1911.

[72 S. E. 101.]

**1. Licenses (§ 6\*)—Power —Municipalities—Sale of Cider.**—Under Radford City Charter (Laws 1910, c. 192), § 54, providing that the council may raise taxes annually on all subjects taxable by the state, and section 57 authorizing the council to levy a tax on licenses to agents of insurance companies and others and upon any other business, whether a license may be required by the state or not, the city may impose a license tax upon one in the business of selling cider, for the first section gives general powers of taxation upon all businesses not prohibited, and that the enumeration in the second section did not except that business.

[Ed. Note.—For other cases, see Licenses, Cent. Dig., §§ 5, 6, 19; Dec. Dig., § 6.\* 9 Va.-W. Va. Enc. Dig. 311, 321; 10 Va.-W. Va. Enc. Dig. 228.]

**2. Statutes (§ 95\*)—Special Legislation—Licenses.**—Radford City Charter (Laws 1910, c. 192), § 57, providing that the city council may levy a tax upon licenses to agents of insurance companies, to auctioneers, and others and any other business, whether a license may be required therefor by the state or not, is not a violation of Const., § 117, inhibiting special legislation.

[Ed. Note.—For other cases, see Statutes, Cent. Dig., §§ 105, 106; Dec. Dig., § 95.\* 3 Va.-W. Va. Enc. Dig. 169; 9 Va.-W. Va. Enc. Dig. 307.]

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.